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Committee on the Elimination of Racial Discrimination
Ninety-sixth session

Summary record of 2653rd meeting
Held at the Palais Wilson, Geneva, on Friday, 10 August 2018, at 10 a.m.

Chair: Mr. Amir
later: Ms Li (Vice-Chair)
later: Mr. Amir (Chair)

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The meeting was called to order at 10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined twelfth and thirteenth periodic reports of Bosnia and Herzegovina (*continued*) (CERD/C/BIH/12-13 and CERD/C/BIH/Q/12-13)

1. *At the invitation of the Chair, the delegation of Bosnia and Herzegovina took places at the Committee table.*

2. **Ms. Duderija** (Bosnia and Herzegovina) said that the Act on Prohibition of Discrimination of 2009 was in conformity with international human rights conventions, and established the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina as the main body responsible for the prevention of discrimination. Most laws passed in Bosnia and Herzegovina incorporated anti-discrimination provisions that applied to the labour and social welfare spheres, among others. Several mechanisms to prevent discrimination had been established on the basis of legislation. The competent inspection authorities were empowered to receive complaints and to order corrective measures, while legal action could be taken before the courts.

3. The Institution of the Human Rights Ombudsman provided direct support for citizens, groups and non-governmental organizations representing the interests of persons exposed to discrimination. It investigated and considered complaints and made recommendations to the relevant institutions, which were obliged to respond by a specified deadline. It also prepared annual reports on reported cases of discrimination, which it submitted to the Parliamentary Assembly along with recommendations. In 2017 and 2018, almost 450 cases had been referred to the Institution of the Human Rights Ombudsman, with 130 involving more than one type of discrimination.

4. In terms of the basis of discrimination, the highest number of complaints pertained to mobbing, while smaller numbers of cases had been reported concerning discrimination on the respective grounds of ethnicity, connection with a national minority, political affiliation and gender. The reporting process included the collection of data from the Constitutional Court and the office of the government agent before the European Court of Human Rights, while civil society organizations were consulted in the drafting of the report and contributed in particular to the measures that were proposed to the Parliamentary Assembly. The process formed part of the Government's ongoing strategy to promote human rights through the development of a comprehensive framework to address all discrimination issues. In that regard, it should be recalled that the Government, in the context of its application to become a member of the European Union, had committed to meeting criteria on discrimination, human rights and the rule of law, and was currently drafting answers to follow-up questions posed by the European Commission.

5. **Mr. Lalić** said that the Government had adopted several strategic and legislative documents that underpinned efforts to improve the situation of national minorities, including Roma. They included the Strategy of Bosnia and Herzegovina for Addressing Roma Issues adopted in 2004, the Act on the Protection of National Minorities passed in 2003 and the successive action plans for addressing Roma issues in the fields of employment, housing and health care, the most recent of which covered the period 2017–2020. The strategic documents contained budgetary provisions detailing the funds that would be provided to meet Roma needs. A new action plan for educational needs had recently been adopted for the period 2018–2020, and the Government planned to support 35 local action plans to improve education in the communities where most Roma live.

6. Bosnia and Herzegovina was similar to neighbouring countries in that it did not have precise figures on the Roma population. According to the 2013 census, the country's Roma population numbered about 12,000, while an exercise to register Roma needs had put the figure at 17,600. The Action Plan of Bosnia and Herzegovina for Addressing Roma Issues in the Fields of Employment, Housing and Health Care 2017–2020 and other policy documents, taking into account various indicators and the opinions of Roma non-governmental organizations (NGOs), assumed a Roma population of 20,000 to 25,000. The

Government did not believe the claims of some NGOs that the figure was as high as 80,000. In terms of regional distribution, most Roma lived in the Zenica-Doboj, Tuzla and Central Bosnia cantons.

7. Regarding the question of whether Roma had control over their lives, participated in decision-making and were involved in the implementation of plans and activities, he drew attention to the Roma Board within the Council of Ministers, which was an advisory body comprised of 22 members, 11 of whom were Roma, including three women. Roma also served on the Council of National Minorities — an advisory body to the Parliamentary Assembly — and on the corresponding minority councils of the parliaments of the Federation of Bosnia and Herzegovina and of the Republika Srpska. Minority councils had been established in the Sarajevo and Bihac cantons. Both the national Government and local authorities, particularly those in Brčko District, Kakanj and Tuzla, had made progress in employing Roma officials, who contributed to operational and strategic planning concerning Roma and had participated in the working groups for the design of the 2017–2020 Action Plan.

8. The Roma Board had discussed the 2018 budget of the Action Plan and had decided how much funding was required in the respective areas of housing, employment and health care, according to needs. Between 2009 and 2017, about 19 million marka (km) — not including the Republika Srpska — had been spent on Roma issues. Of that figure, about 4 million had been spent on employment, allowing 688 Roma to participate in employment programmes. Another 13 million had been allocated to housing, resulting in the construction of 720 housing units with a further 1,000 planned for subsequent years. Approximately km 1.7 million had been spent on health care. The budget of the 2017–2020 Action Plan was km 24.25 million, funded by the national Government, the entities and donors; financial assistance would also be sought from the Instrument for Pre-accession Assistance of the European Union.

9. The Government had set itself four strategic goals to enhance the situation of Roma: the strengthening of institutional capacities, the improvement of employability and employment, the improvement of housing conditions and the improvement, availability and quality of health care. To promote employability and employment, in 2018 the Government had allocated km 650,000 and was providing vocational and skills training to address the lack of qualifications among Roma. Formal employment conferred the right to health insurance for individuals and their families, a benefit which could be retained by unemployed persons if they had been employed for one year and registered with an employment office. In 2018, km 350,000 had been allocated to health care and would go towards the training of Roma health mediators, preventive health check-ups and education on reproductive health. In respect of housing conditions, Bosnia and Herzegovina compared favourably to other countries in the region, and given that Roma families contained an average of five members, the housebuilding programme had been able to accommodate a large percentage of the Roma population. The aim was to address Roma issues through an integrated approach, whereby access to housing would in turn facilitate employment and the provision of health care.

10. The Government was aware that education remained an essential need of every human being. Bosnia and Herzegovina had a total of 12 different education systems, comprising those of the 10 cantons, of Brčko District and of the Republika Srpska. The system was not discriminatory and Roma children had exactly the same rights as all other children. While inadequate social and economic conditions affecting Roma made access to education more difficult for them, all Roma children attending school received free lunches, books and transport. While the number of Roma in secondary education was rising, for the most part they did not go on to university. Lastly, he said that Bosnia and Herzegovina was a committed member of all international institutions that sought to improve the living conditions of Roma.

11. *Ms. Li (Vice-Chair) took the Chair.*

12. **Ms. Đuderija** (Bosnia and Herzegovina) said that she wished to add that in the most recent census it had not been obligatory for respondents to state their nationality or affiliation with a minority group such as Roma. In addition to collecting relevant data from

representatives in local communities, the Government had undertaken a joint survey with the United Nations Children's Fund, which had yielded indicators on the Roma population and its economic status that were subsequently used to facilitate the inclusion of the community. There was no waiting list for the registration of vital events such as births. Several years previously, the Government had identified the problem that Roma parents typically did not register the births of their children; however, that problem had been largely overcome by means of information checks. The 57 unprocessed cases were expected to be swiftly resolved. While the Government aimed to increase the number of Roma in work, recognizing that they were particularly vulnerable to unemployment, the context remained challenging in terms of the high overall unemployment rate in Bosnia and Herzegovina.

13. **Ms. Fakić** (Bosnia and Herzegovina) said that, regarding the difference between citizenship of the entities and citizenship of Bosnia and Herzegovina, the Constitution only recognized the latter. Citizenship of the separate entities also existed but it was not possible to be a citizen of one of the entities without being a citizen of Bosnia and Herzegovina. It was mandatory for the citizenship laws of the entities to be in line with the Law on Citizenship and the Constitution of Bosnia and Herzegovina. All citizens of Bosnia and Herzegovina enjoyed the rights and freedoms enshrined in the Constitution, regardless of whether they held entity citizenship. A similar system had existed in the Former Yugoslavia.

14. In 2013, the Law on Amendments to the Law on Citizenship had been adopted. However, before legislation could be brought into alignment with international instruments, including the Convention on the Reduction of Statelessness, the entities had been obliged to harmonize their legislation with the Law on Citizenship. While the Republika Srpska had quickly made the required amendments, the Federation had not harmonized its legislation until 2016. Nevertheless, the country did not experience serious issues in relation to citizenship and the competent authorities attended regular meetings with non-governmental organizations and government officials of other States to discuss citizenship issues. Further amendments had been made to national legislation in order to prevent statelessness resulting from the breakup of the Former Yugoslavia.

15. Regarding the renunciation of citizenship, under national law any citizen of Bosnia and Herzegovina who was over 18 years of age, lived abroad and held citizenship of another country or was guaranteed to acquire it, could renounce their citizenship of Bosnia and Herzegovina. It was common for citizens who had moved to a country that did now allow dual citizenship to renounce their citizenship of Bosnia and Herzegovina in favour of that of their country of residence. Significant efforts were made to avoid statelessness; any individual applying to renounce their citizenship was obliged to prove that he or she held or would acquire citizenship of another country. Furthermore, the deadline of one year to reapply for citizenship following renunciation had been abolished to allow for changes in individual circumstances.

16. **Ms. Marković-Sekulić** (Bosnia and Herzegovina) said that the Government was making great efforts to implement Annex 7 (Agreement on Refugees and Displaced Persons) of the General Framework Agreement for Peace in Bosnia and Herzegovina. Displacement had been a serious issue in the country since 2.4 million people had fled their homes during the war. In 2002, the Government had adopted a strategy to implement Annex 7 with the aims of: completing the process of returning refugees and internally displaced persons to their pre-war homes, reconstructing or constructing housing and creating conditions for sustainable return and reintegration. Measures were implemented as part of the strategy to: reconstruct homes; close collective accommodation centres; house refugees; build and electrify infrastructure; promote the healthcare, social protection, education, employment, safety and security of returnees and clear mines in areas to which people were returning. Special efforts were made to house vulnerable groups of returnees and a number of projects had been implemented in that regard. The Government and the Council of Europe Development Bank had funded a km 200 million housing project to provide housing for returnees, including refugees returning from abroad and the some 100,000 internally displaced persons. Further housing projects had been funded by Saudi Arabia and the Organization of the Petroleum Exporting Countries. The Government was also working to provide housing for individuals leaving collective accommodation.

Significant achievements had been made; 1,061,000 returns had been recorded, 42 per cent of which were refugees returning from abroad and the remaining 58 per cent internally displaced persons. Furthermore, according to recent data prepared in cooperation with UNHCR, the number of refugees living outside the country had fallen since 2015.

17. Each year, a comprehensive report on the implementation of measures taken for the benefit for refugees and internally displaced persons was presented to the Parliamentary Assembly, with members of various non-governmental organizations and UNHCR present. In 2017, the report had been adopted without any objections or need for additions.

18. **Mr. Baotić** (Bosnia and Herzegovina) said that the country was experiencing the highest levels of migration in its history. Thousands of migrants were entering illegally without identity documents. The Ministry of Security worked round the clock to update the database that contained information on those migrants. Many migrants declared an intention to seek asylum in Bosnia and Herzegovina. However, in reality the majority continued on to Western Europe and did not file an asylum application in the country. His Government systematically followed a principle of non-refoulement and did not return individuals to their country of origin if they could be subject to persecution. Migrants were entitled to an interpreter, free legal aid and accommodation. Free legal aid was provided by non-governmental organizations or the Ministry of Justice. Migrants could also access the labour market while their claim or application was being processed. The Government provided all migrants with information regarding how they might claim refugee status or other legal protections. The authorities had experienced issues with migrants falsely claiming to be from war zones in order to benefit from refugee rather than economic migrant status.

19. Upon first contact with national authorities, unaccompanied minors were assigned a guardian who would make decisions based on their best interests, in line with the Convention on the Rights of the Child. However, when they were informed that they would be assigned such a guardian, many minors claimed to be adults. In the past, such individuals had disappeared following the assignment of a guardian. The Government would continue to build capacity to respond to the growing issue of migration.

20. *Mr. Amir (Chair) resumed the Chair.*

21. **Ms. Duderija** (Bosnia and Herzegovina) said that legislation on aliens had been harmonized with the European Union *acquis communautaire*, which was an important step towards the implementation of international standards.

22. **Mr. Krstović** (Bosnia and Herzegovina) said that the prosecution of war crimes was a highly complex issue. In the days when the International Criminal Tribunal for the Former Yugoslavia (ICTY) had been operational, national courts had prosecuted war crimes and cooperated with that Tribunal. Crimes of international humanitarian law were defined in the country's Criminal Codes. Although the Court of Bosnia and Herzegovina had jurisdiction over such crimes, less complex war crimes cases were prosecuted by the entity courts, pursuant to amendments brought to the Codes, in order to expedite justice.

23. The National Strategy for War Crimes Processing, adopted by the Council of Ministers, had set ambitious deadlines for the processing of war crimes that had not been met. Consequently, a revised national strategy had been drafted by a working group comprising judges, prosecutors, representatives from the Organization for Security and Cooperation in Europe and others. The working group had sent the draft strategy to the Council of Ministers, but it had not yet been adopted. A new deadline of 2020 had been set for the completion of war crimes cases. In order to facilitate the prosecution of such crimes, legislative amendments had been enacted. For example, the requirements of force and the victim's lack of will had been eliminated from the definition of rape in order to make that crime easier to prove.

24. In 2010, hate speech had been included in the Criminal Code of the Republika Srpska and in 2016 it had been included in the Criminal Code of the Federation of Bosnia and Herzegovina. Hate crime was not included in the State-level Criminal Code because it did not fall within the jurisdiction of the Court of Bosnia and Herzegovina. Penalties for incitement to racial and ethnic hatred were 1 to 5 years' imprisonment under the Criminal

Code of the Federation, 1 to 3 years' imprisonment and a fine under the Criminal Code of the Republika Srpska, and 1 to 3 years' imprisonment under the Criminal Code of the Brčko District. The maximum sentence for incitement of racial or ethnic hatred by an individual acting in an official capacity was 10 years' imprisonment. The definition of hate crime had been harmonized in all the Criminal Codes. Although the grounds of discrimination as required by international standards had not yet been incorporated, amendments to that effect were currently before the Council of Ministers.

25. **Mr. Povlakić** (Bosnia and Herzegovina) said that the Communications Regulatory Agency was exclusively competent to deal with audio and visual media, including radio services, whereas the Press Council was a self-regulatory body that was competent for press media and, since 2011, online media. It was difficult to measure the results of the activities carried out by the Communications Regulatory Agency, since the Centres for Judicial and Prosecutorial Training at the entity level also provided, throughout the year, training on hate speech, human trafficking, terrorism, cybercrime and other issues. In addition, the Press Council organized workshops for the judiciary and prosecutors regarding hate speech and the abuse of freedom of speech. In the last year, the Communications Regulatory Agency had worked with the State-level association of journalists to discuss objections raised by journalists and specific cases that had been brought to the attention of the Agency and the Press Council.

26. Ahead of the General Election to be held in October 2018, both the Communications Regulatory Agency and the Press Council were carrying out specific activities to eliminate hate speech during election campaigns and on election day. The electronic media had been given the option of refusing to advertise political content that had any connotations of discrimination or prejudice or that could incite hatred on grounds of race, religion, ethnicity, age, sexual orientation, social position or any other circumstance. The Press Council had started a campaign against hate speech in the press, online media and Internet portals.

27. **Ms. Đuderija** (Bosnia and Herzegovina) said that the Civil Service Agency also provided training to civil servants, which included topics proposed by the Government and other stakeholders regarding discrimination and the rights of vulnerable groups.

28. An anti-trafficking action plan had been adopted at the national level. It had been found that a significant proportion of the victims of human trafficking were children, mainly Roma children used for begging. The Government endeavoured to eliminate that practice by providing support to Roma families, tackling poverty and making efforts to improve the economic inclusion of such families. Efforts to harmonize and extend existing legislation on human trafficking at the entity level were under way, which should help the implementation of the action plan.

The meeting was suspended at 11.45 a.m. and resumed at 12 noon.

29. **Mr. Calí Tzay** said that he would like information about the children that had been born during the war in the State party, particularly Roma children. He wondered whether there had been any problems registering their births during the prolonged period of instability that had led to a great number of refugees and internally displaced persons. As it might be difficult to answer such a question at short notice, the State party was invited to submit written replies that could be taken into account for the Committee's concluding observations.

30. He wished to highlight the Ombudsman's assertion that it did not have a sufficient budget, which meant that it was not fully operational. He was concerned that, owing to that shortage of resources, the recommendations of the Ombudsman and the Committee's own recommendations had not been fully implemented, particularly in relation to racial discrimination and Internet propaganda. The anonymity of Internet propaganda broadcasters and the fact that many of them were private entities further complicated the issue.

31. While the delegation had mentioned that efforts were being made to improve the standard of living of Roma families, he was alarmed at the lack of emphasis on education in that respect. Stereotypes about the Roma community that were commonplace in the State party resembled those propagated in relation to indigenous people in the Americas.

Therefore, it was not just a question of educating the Roma community but also of educating the rest of the population in order to counteract such prejudices.

32. Regarding accommodation, he would like to know whether the new housing envisaged for Roma families was being provided in accordance with their wishes and cultural practices. Lastly, as over 80 per cent of the children in that community lived below the poverty line, he wondered whether the State party could share further information on the efforts undertaken to address that problem.

33. **Mr. Avtonomov** said that he would like to know whether the State party planned to ratify the amendment to article 8 of the Convention and also the Home Work Convention. The State party was welcome to include the answers to those questions in its next periodic report.

34. **Ms. Ko** said that she would appreciate confirmation from the delegation that individual jurisdictions tried less complicated war crimes cases, while more complicated cases were tried at the Court of Bosnia and Herzegovina. She would like to know whether that Court had cases referred to it by ICTY. Because the place in which a crime was tried had an effect on justice and tension between different ethnic groups, she was interested to know more about the basis of jurisdiction for the trying of war crimes and crimes against humanity. Specifically, she would like to know whether a certain court had jurisdiction because a crime had taken place in the area of its jurisdiction, because the defendant was from there, or because the majority of the victims were from there.

35. **Mr. Murillo Martínez** said that he would like to know, in relation to follow-up, whether the State party had established a practice of carrying out surveys or polls to assess perceptions among the general population and minority populations regarding racism and discrimination. If such a practice was not in place, the State party was invited to institute one given that it would provide valuable guidance on which to base anti-discrimination efforts.

36. **Ms. Izsák-Ndiaye** said that she was concerned about social division in the State party. Having worked in Bosnia and Herzegovina herself, she had witnessed first-hand the ethnic divisions that persisted in daily life. Nevertheless, she was hopeful of the progress that young people would generate in the country, as had been recently demonstrated by the 2017 student protest in Jajce, during which students had insisted on ethnically integrated schools and school curricula. She recommended that the State party invest in its young people by ensuring their political participation and involvement in decision-making processes. Such efforts would also encourage youngsters to stay in Bosnia and Herzegovina rather than emigrate.

37. **Ms. Duderija** (Bosnia and Herzegovina) said that the Government was committed to overcoming its ethnic divisions but that reconciliation would be a long process that required political will and the desire for positive change among citizens. State social welfare programmes invested both funds and expertise in improving the situation of Roma children. There was a high level of social exclusion faced by such children because many of their parents refused to enrol them in school. Social welfare programmes encouraged Roma parents to enrol their children in schools, discourage pupils from dropping out and stop persons from forcing Roma children to work and beg on the streets. The issue pertaining to Roma persons without identity papers was not a result of the war but of the itinerant lifestyle that the Roma led. Such a way of life prevented them from registering a permanent place of residence, without which it was not possible to obtain identity papers. However, efforts had been made after the war to provide identity documents to Roma and to encourage birth registration. Electronic birth registration was available to all children whether they had been born at home or in a hospital.

38. Regarding housing for Roma, the decision-making process for constructing new housing units had involved Roma communities. State employees had visited Roma settlements and coordinated with local communities to reach a decision with which both parties were satisfied. Surveys had been conducted on Roma and their participation in public and cultural life. The results of the surveys indicated that there were hidden forms of discrimination against Roma. The Government, together with NGOs, would continue to combat such types of discrimination.

39. There was no problem concerning the budget of the Ombudsman for Human Rights; the problem was in fact linked to fulfilling the requirement for an independent budget allocation to that institution. The budget should be decided by Parliament rather than the Ministry of Finance, as the latter often sought to save on the State budget, which could compromise the independence of the Ombudsman. A resolution to the problem would be found once the new Law on the Ombudsman Institution of Human Rights of Bosnia and Herzegovina was adopted.

40. The Government was considering the ratification of amendments to article 8 of the Convention and would follow the necessary procedure as established by law when required to do so. The Government was also considering ratifying International Labour Organization (ILO) Domestic Workers Convention (No. 189). Steps were being taken to develop a comprehensive human rights plan, one component of which would be combating racial discrimination.

41. **Mr. Krstović** (Bosnia and Herzegovina) said that the most complex criminal cases pertaining to war crimes were prosecuted before the Court of Bosnia and Herzegovina. However, following the adoption of the National Strategy for the Processing of War Crime Cases in 2008, criteria had been established to assess the complexity or seriousness of cases. It had been agreed that less complex or serious cases would be referred to lower instance courts or entity courts. The judgment of the European Court of Human Rights on the case of *Sejdić-Finci v. Bosnia and Herzegovina* had unfortunately not been enforced and discriminatory provisions had subsequently not yet been removed from the Constitution of Bosnia and Herzegovina. The Council of Ministers had instructed the Ministry of Justice to develop an action plan on the implementation of the judgments on *Sejdić-Finci v. Bosnia and Herzegovina*, *Pilav v. Bosnia and Herzegovina* and *Zornic v. Bosnia and Herzegovina*. The action plan had been submitted in 2016 and was at present under consideration by the Council of Ministers.

42. **Ms. Đuderija** (Bosnia and Herzegovina) said that the place of origin of the perpetrator of war crimes did not serve as the basis according to which criminal cases were referred to the entity courts. The referral of cases to such lower instance courts was based exclusively on the complexity or seriousness of the individual case. Entity courts did however judge cases in accordance with the Criminal Code of Bosnia and Herzegovina, which provided for the punishment of war crimes.

43. **Ms. Shepherd** said that she appreciated the efforts of the State party to build a free and equal society free from discrimination and understood that the challenges posed by the war had impeded that process. She asked how the Government was addressing racism in sports; which ethnic groups were most affected by discrimination in sports; whether data were available on the number of African persons living in Bosnia and Herzegovina; whether the Government intended to implement a plan of action for the International Decade for People of African Descent; whether the State party could provide disaggregated data on the ethnic composition of the population; how the Government measured the impact of anti-discrimination training for judges and police officers; whether there were plans to intensify public awareness of hate speech in light of the upcoming election in 2018; how the State party reconciled different ethnic histories in the content of school curricula; whether additional information was available on the "two schools under one roof" system; how ministries tackled the implementation of recommendations submitted by the Ombudsman; how the Government intended to resolve the lack of independence of the Ombudsman and how new legislation would facilitate the process for Roma to obtain identity documents. Written replies to her questions would be appreciated in order for them to be taken into consideration when the Committee drafted its concluding observations.

The meeting rose at 12.50 p.m.